23-000507-0030

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 11297

JOSELITO M. LIZARONDO,
Petitioner,

- versus -

NOTICE OF RESOLUTION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. LUIS Z. CELESTINO
ATTY. CHRISTIAN WILFRED D. MORALES
ATTY. NAPOLES P. CAMPOS JR.
Bureau of Internal Revenue - Revenue Region No. 5 - Caloocan City
No. 10 General Concepcion Street, Brgy. 134
1400 Caloocan City

CABRERA & COMPANY
28th Floor, AIA Tower (formerly Philamlife Tower)
8767 Paseo de Roxas
1226 Makati City

GREETINGS:

You are hereby notified by these presents that on **August 20, 2024,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **August 21, 2024.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

JOSELITO M. LIZARONDO,
Petitioner,

CTA CASE NO. 11297

Members:

DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

\- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
AUG 2 0 2024 11:35AM

x---x

RESOLUTION

For the Court's resolution is petitioner's **Motion for Reconsideration (Re: Resolution dated 24 May 2024)** [Motion for Reconsideration] filed on June 10, 2024, with respondent's **Comment/Opposition** filed on June 28, 2024.

To recall, a Resolution dismissing the present case for lack of jurisdiction was issued by the Court on May 24, 2024. In the present Motion for Reconsideration, petitioner prays that said dismissal be reconsidered by the Court. In support thereof, petitioner raised the following grounds:

> (1) The action or denial by the Commissioner of Internal Revenue (CIR) of the administrative claim for refund is not a condition *sine qua non* for the filing of a judicial claim for refund of erroneously paid taxes under Section 229 of the National Internal Revenue Code (NIRC) of 1997, as amended;

(2) Petitioner did not violate the doctrine of exhaustion of administrative remedies; and,

(3) Revenue Memorandum Order (RMO) No. 30-2018[1] and Revenue Memorandum Circular (RMC) No. 17-2018[2] are mere guidelines for the processing of administrative claims of erroneously paid taxes.

Petitioner submits that the decision of the CIR on the administrative claim is not required before it may be allowed to file its judicial claim before this Court.

Petitioner further argues that there is no law or jurisprudence which provides that the exhaustion of administrative remedies is a condition precedent for the filing of a judicial claim for refund of erroneously paid taxes. Ironically, petitioner also claims that the present case is one of the exceptions to the doctrine of exhaustion of administrative remedies because it involves purely legal questions.

Lastly, petitioner maintains that RMO No. 30-2018 and RMC No. 17-2018 were issued to implement the provisions of Sections 204 and 229 of the NIRC of 1997, as amended. According to petitioner, said issuances are "silent on, and do not require, the action or denial" of respondent before a judicial claim may be validly filed before this Court.

Respondent, in his Comment/Opposition, argues that the Court has no jurisdiction over the present case as petitioner failed to exhaust administrative remedies and to comply with the procedures laid down by the Bureau of Internal Revenue (BIR) insofar as a claim for refund is concerned. Moreover, respondent avers that petitioner should have first elevated the denial of the Revenue District Office (RDO) to the Assistant Commissioner of Internal Revenue (ACIR) of the Assessment Service before filing its judicial claim for refund before the Court.

Petitioner's Motion for Reconsideration lacks merit.

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[1] SUBJECT: Prescribing the Audit/Investigation of Individual and Non-Individual Taxpayers by the Regional Assessment Divisions

[2] SUBJECT: Amending Revenue Memorandum Circular (RMC) No. 89-2017 and Certain Provisions of RMC No. 54-2014 Regarding the Processing of Claims for Issuance of Tax Refund/Tax Credit Certificate (TCC) in Relation to Amendments Made in the National Internal Revenue Code of 1997, as Amended by Republic Act No. 10963, Known as the Tax Reform for Acceleration and Inclusion (TRAIN)

True, the Supreme Court, in the case of *Commissioner of Internal Revenue vs. Carrier Air Conditioning Philippines, Inc.*[3] as cited by petitioner, held that it does not matter how far apart the administrative and judicial claims were filed, or whether respondent was **actually able to rule** on the administrative claim, so long as both claims were filed within the two-year prescriptive period. But this principle is confined to the specific peculiarity of the facts therein, particularly in such instance where a proper administrative claim for refund was filed and the two-year prescriptive period to file judicial claim was about to lapse, **without action on the administrative claim for refund**. Such is not the scenario in the present case as there was no inaction on the administrative claim for refund filed by petitioner with BIR RDO 25A-West Bulacan on February 8. 2023.[4] Truth to tell, **in a Letter dated September 12, 2023, petitioner's claim for refund of capital gains tax (CGT) was denied** by Revenue District Officer Raymund V. Ranchez (RDO Ranchez) of RDO 25A-West Bulacan. Said September 12, 2023 Letter is the subject of petitioner's Petition for Review filed on October 27, 2023. The issue therefore is whether the September 12, 2023 Letter of RDO Ranchez is the action of the BIR that is appealable to the CTA.

Under Section 229 in relation to Section 204 of the NIRC of 1997, as amended, both the administrative and the judicial claims for refund must be filed within two (2) years from the date of payment of the tax or penalty. Relatedly, it is either the decision or inaction on the administrative claim that is appealable to the CTA. In the present case, the subject of appeal is the decision that was rendered by RDO Ranchez in the Letter dated September 12, 2023. However, this decision is not the decision referred to in Section 7(a)(1) of Republic Act No. 1125, as amended, that is appealable to the Court as it is not a decision of the CIR or his authorized representative, as elucidated on pages 4 to 8 of the Resolution dated May 24, 2024.

At the risk of being repetitive, petitioner is reminded that jurisdiction is conferred by law, and lack of it affects the very authority of the court to take cognizance of and to render judgment on the action.[5] Thus, when a court has no jurisdiction over the subject matter, the only power it has is to **dismiss the action**.[6]

WHEREFORE, premises considered, petitioner's **Motion for Reconsideration (Re: Resolution dated 24 May 2024)** is **DENIED** for lack of merit.

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[3] G.R. No. 226592, July 27, 2021.
[4] Par. 24, *Petition for Review*, CTA Docket, p. 12.
[5] *Honorio Bernardo vs. Heirs of Eusebio Villegas*, G.R. No. 183357, March 15, 2010.
[6] *Mitsubishi Motors Philippines Corporation vs. Bureau of Customs*, G.R. No. 209830, June 17, 2015.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice